

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**I.T.R. No.11 of 2000
Date of Decision:23.11.2006**

The Commissioner of Income-tax, Amritsar

.....Petitioner

Vs.

Shri Sat Pal, P/o M/s Khushi Ram & Sons, Amritsar

.....Respondent

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL**

Present:- Dr. N.L.Sharda, Advocate for the petitioner.

Mr. Akshay Bhan, Advocate for the respondent.

ADARSH KUMAR GOEL, J.

The following questions of law have been referred for opinion of this Court arising out of order passed by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar in I.T.A. No.883(ASR)/1979 dated 31.1.1981 in respect of assessment year 1969-70:-

- “1. Whether on the facts and in the circumstances of the case, the Tribunal has misdirected itself in law in holding that the Revenue has failed to prove the liability of the assessee for penalty under section 271(1)(c) in respect of the moneys which were invested by assessee in the purchase of gold bars and which had been assessed as income from undisclosed sources?
2. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in cancelling the penalty in the sum of Rs.61,750/- levied on the assessee under section 271(1)(c) of the Act?”

Search was conducted on the premises of the assessee on 20.9.1968 by the Custom Department which led to recovery of gold which was taken into custody and was seized. Taking this into account, during assessment for the assessment year 1969-70, some additions were made to

the income of the assessee. Addition to income was reduced on appeal and was further reduced by the Tribunal. Thereafter, penalty of Rs.61,750/- was imposed. The same was deleted by the impugned order of the Tribunal.

Having regard to the facts and circumstances of the case, the Tribunal concluded that finding of concealment of income could not be recorded.

We have heard learned counsel for the parties and perused the record.

It cannot be disputed that parameters for making addition to income are different from parameters applied for imposing penalty. Imposition of penalty can be justified only when a clear finding of concealment of income can be recorded. The Tribunal having held that a clear finding of concealment of income could not be recorded and having regard to the facts and circumstances of the present case, we are unable to hold that the said view is perverse or that the Tribunal has misdirected itself in law.

For the above reasons, the questions referred are answered against the revenue and in favour of the assessee.

Reference is disposed of in the manner indicated above.

**(ADARSH KUMAR GOEL)
JUDGE**

**November 23, 2006
renu**

**(RAJESH BINDAL)
JUDGE**